



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/670,950 | 09/25/2003 | R. Eric Montgomery | P1087US02 | 7057 |

53096 7590 06/14/2006

DISCUS DENTAL IMPRESSIONS, INC.
8550 HIGUERA STREET
CULVER CITY, CA 90232

| |
|----------|
| EXAMINER |
|----------|

BUMGARNER, MELBA N

| | |
|----------|--------------|
| ART UNIT | PAPER NUMBER |
|----------|--------------|

3732

DATE MAILED: 06/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|------------------------|---------------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 10/670,950 | MONGTOMERY, R. ERIC | |
| | Examiner | Art Unit | |
| | Melba Bumgarner | 3732 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 April 2006.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 18-42 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 18-42 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Applicant's election of Group II, claims 18-42 in the reply filed on April 4, 2006 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).
2. Claims 1-17 and 43-50 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 18, 21, 23, and 27 are rejected under 35 U.S.C. 102(b) as being anticipated by Green (5,829,976). Green discloses a therapeutic dental delivery device comprising a liquid oral therapeutic dental composition (column 1 line 67), an applicator 20, an activator 32 and a reservoir 30 located between the applicator and the activator and configured to store the composition, the activator is configured to dispense the composition from the reservoir to the applicator. The applicator is a felt tip 18. The activator is a push button.
5. Claims 18, 21, 23, and 26 are rejected under 35 U.S.C. 102(b) as being anticipated by Grace (1,362,937). Grace discloses a therapeutic dental delivery device comprising a dental

Art Unit: 3732

composition (page 1 line 50), an applicator 30, an activator (page 2 line 61) and a reservoir 26 located between the applicator and the activator and configured to store the composition, the activator is configured to dispense the composition from the reservoir to the applicator. The applicator is a brush. The activator is a twist mechanism.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 19, 20, 22, 24, 31, 32, 34-37, and 42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Green in view of Matthews et al. (2003/0232310). Green discloses a device that shows the limitations as described above; however, Green does not show the composition. Matthews et al. teach a device comprising a liquid oral therapeutic dental composition comprising a moisture sensitive polymer complex and a water soluble salt and hydrogen peroxide or carbamide peroxide [0020]-[0022]. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the device of Green to have the composition of Matthews et al. in order to whiten or bleach one or more teeth. It would have been obvious to one of ordinary skill in the art to have the device activate by twist mechanism to dispense the composition. Matthews et al. teach having instructions in order to show how to use the composition.

8. Claims 19, 20, 22, 24, 29, 30, 34-37, and 42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Grace in view of Matthews et al. Grace discloses a device that shows the

Art Unit: 3732

limitations as described above; however, Grace does not show the composition. Matthews et al. teach a device comprising a liquid oral therapeutic dental composition comprising a moisture sensitive polymer complex and a water soluble salt and hydrogen peroxide or carbamide peroxide [0020]-[0022]. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the device of Grace to have the composition of Matthews et al. in order to whiten or bleach one or more teeth. It would have been obvious to one of ordinary skill in the art to have the device activate by push button to dispense the composition. Matthews et al. teach having instructions in order to show how to use the composition.

9. Claims 25 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Grace and Green, respectively. Grace and Green disclose a device that shows the limitations as described above; however, they do not show various activator mechanisms. It would have been obvious to one of ordinary skill in the art at the time the invention was made as to the specific activator, since interchanging of click, push button, or twist mechanism in the device involves only routine skill in the art.

10. Claims 33 and 38-41 are rejected under 35 U.S.C. 103 (a) as being unpatentable over Green or Grace in view of Matthews et al. and further in view of Fischer et al. (6,083,489). The modified device of Green or Grace and Matthews et al. shows the limitations as described above; however, they do not show gel carrier polymer including polyvinylpyrrolidone. Fischer et al. teach carrier including carboxypolymethylene and polyvinylpyrrolidone (column 8 line 20). It would have been obvious to one having ordinary skill in the art to further modify the device to include the thickener of Fischer et al. to provide bulk and suitable consistency to the carrier in view of Fischer et al.

Art Unit: 3732

Conclusion

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melba Bumgarner whose telephone number is 571-272-4709. The examiner can normally be reached on Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Shaver can be reached at 571-272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Melba Bumgarner
Primary Examiner